

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

Portfolio Recovery Associates, LLC

Defendants.

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CIVIL ACTION NO.:

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Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Portfolio Recovery Associates are third party debt collectors as defined by the FDCPA and are operating from 120 Corporate Blvd, Norfolk, VA 23502. Their registered agent address is Corporation Service Company, Bank of America Center, 16th Floor, 1111 East Main street, Richmond, VA 23219.

Jurisdiction

3. Jurisdiction of this court arises as the acts happened in this county.
4. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

5. Over the past several years, the Plaintiff received multiple debt collection phone calls from Portfolio Recovery Associates (hereafter PRA). There have been at least 52 calls from various phone numbers from PRA, these numbers include 817-345-7084, 215-268-7164, and 412-924-8177. They never left a message, but instead called and called, sometimes twice per day, such as on 8/21/2014 when they called at 8:04 AM and 4:11 PM from 817-345-7084.
6. The defendant PRA is a third party debt collector as defined by the FDCPA, 15 USC 1692. The calls were made in an attempt to collect a debt from a currently unknown third party. The Plaintiff has never owed a debt to PRA and no debt was alleged to be owed in any conversations with PRA employees.
7. In conversations with PRA associates, they confirmed to the Plaintiff that he was not the person they were looking for and that they were calling a wrong number.
8. The Plaintiff was also told that the calls were automated as well by agents of PRA.
9. The Plaintiff is a third party, and the communication violated 15 USC 1692(c)(a)(b), which generally prohibits communication with 3rd parties, as the unknown debtor did not give consent to PRA to speak with the Plaintiff regarding the debt, and the call was not being made for the purpose of acquiring location information as defined by 15 USC 1692(b). The Defendant was taking a flyer just dialing possible numbers, knowing full well that they were quite likely to reach an innocent 3rd party. This is harassing behavior likely to annoy a reasonable person

in violation of 15 USC 1692(d).

10. Additionally, by placing call in violation of the TCPA, Defendant PRA has taken action they can't legally take which violates 15 USC 1692(e)(5)
11. Upon information and belief and based on the employee representations, the Defendant also used an automated telephone dialing system to call the Plaintiff's cell phone in violation of the TCPA, 47 USC 227.

CAUSES OF ACTION:

COUNT I

Violations of the Fair Debt Collection Practices Act (FDCPA)

12. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
13. The foregoing actions by the Defendants constitute multiple breaches of the FDCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the name, address, and phone number for the entity for which the calls are being place as required under the TCPA. Additionally, these calls violated the Plaintiff's request for no further calls.

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

14. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

15. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's Cell phone in violation of 47 USC 227 (c) and 47 USC 227(b).

PRAYER FOR DAMAGES AND RELIEFS

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants
- B. Statutory damages of \$1500 for each phone call and \$1,000 under the FDCPA.
- C. Pre-judgment interest from the date of the phone calls.
- D. Punitive damages for all claims in the amount of \$25,000
- E. Attorney's fees for bringing this action as incurred; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case

Respectfully submitted,


Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

February 23, 2015

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 - G. For such other and further relief as the Court may deem just and proper
- I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,


Craig Cunningham

Plaintiff, Pro-se

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5543 Edmondson Pike, ste 248

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